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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,998	07/21/2003	Myk Wayne Lum	1153/202	5482
26588	7590	08/25/2005	EXAMINER	
LIU & LIU 444 S. FLOWER STREET SUITE 1750 LOS ANGELES, CA 90071				NOLAND, KENNETH W
		ART UNIT		PAPER NUMBER
		3653		

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/623,998	LUM ET AL.	
	Examiner	Art Unit	
	Kenneth W. Noland	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
 - 4a) Of the above claim(s) 25-29 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>07-21-03;08-29-03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Art Unit: 3653

1. Claims 25-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected **invention*, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on *07-14-05. The traversal of the restriction is not deemed persuasive because applicant did not present remarks as to why the inventions are not distinct*to not effect a restriction of the inventions.*. It is also noted that claim 25 did not include an amendment to recite an 'access opening'.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5,13-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 5 and 21 recites a protective guard 200 at the access opening 130, however, the access opening 130 would be defined as the opening to access or to dispense the bags and this opening 130 does not have a protective guard. Clarification is required. Claims 13 and 17 recite "the container" and there is no proper antecedent basis for this recitation. Correction is required.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4,6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Carlson et al. Carlson et al shown in figure 1 the dispenser having the smooth front panel 21 with round corners with an access opening 28. there is also a top bottom and a middle section**. Note also the rear portion 22 considered to have sides and the mounting members 32 to attach the front to the rear and side portions. In regard to claim 1, to provide that Carlson et al's dispenser would dispense any other type of article, as a bag, would be obvious as a mere choice of utility to so dispense any desired article and, therefore, this feature is not afforded any patentable weight. In regard to claims 4 and 6, to provide that Carlson et al's dispenser would be made from either plastic or of a metal would be obvious as materials commonly used in industry, and, therefore, this material expediency is not afforded any patentable weight. In regard to claims 7-10, to modify Carlson et al's mounting means for any other type of mounting means, as a screw or adhesive type, would be obvious as such fasteners are frequently applied in everyday use, and, therefore, these fastening expediencies are not afforded any patentable weight.

6. Claims 5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Carlson et al* as applied to claims 1-4,6-10*** above, and further in view of *Decker et al.. As the claims would be understood, to provide Carlson et al's opening for a protective guard would be obvious not only as a means to so attach a conventional hinged lid covering over the opening and, therefore, effect a protective 'guard', but Decker et al shows in figure 2 a type of protective guard 30 attached about an access opening to effect a protection of the opening.**.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Carlson et al** as applied to claims 1-4,6-10*** above, and further in view of **Hochtritt et al. To modify Carlson et al's mounting means for a clamp type mount would be obvious in view of the teachings of Hochtritt et al's use of the clamping of the front 2 to the rear sides 1 by the projecting flange 16 on the rear sides to a complementary- shaped edge 17 of the front, so as to provide a more secure mount for the front and rear portions.*

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Carlson et al** as applied to claim 1-4,6-10*** above, and further in view of *Fai Au. To modify Carlson et al's mounting means for a groove and projection type of mount, would be obvious in view of the teachings of Fai Au's use of the grooved tracks 41 to receive projections from the other container portion so as to provide a better secure mount for the front and rear members.**.

9. Claims 1-11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hochtritt et al. As claims 5 and 21 would be understood, *Hochtritt el al discloses in figure 3 a dispenser having a smooth front panel 2 with round corners and the access opening 5 having a 'guard' member 4 thereabout. Note also the rear member having sides 1 to attach to the front by the clamping of the projecting flange 16 to a complementary-shaped edge 17 *. In regard to claims 1 and 21, to provide that Carlson et al's dispenser would dispense any other type of article, as a bag, would be obvious as a mere choice of utility to so dispense any desired article and, therefore, this feature is not afforded any patentable weight. In regard to claims 4 and 6 and 21, to provide that Carlson et al's dispenser would be made from either plastic or of a metal would be

obvious as materials commonly used in industry, and, therefore, this material expediency is not afforded any patentable weight. In regard to claims 7-10, to modify Carlson et al's mounting means for any other type of mounting means, as a screw or adhesive type, would be obvious as such fasteners are frequently applied in everyday use, and, therefore, these fastening expediencies are not afforded any patentable weight.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Hochtritt et al** as applied to claims 1-11 and 21*** above, and further in view of *Fai Au. **. To modify Hochtritt et al's mounting means for a groove and projection type of mount, would be obvious in view of the teachings of Fai Au's use of the grooved tracks 41 to receive projections from the other container portion so as to provide a better secure mount for the front and rear members.**.

11. If the indefiniteness of claims 13 and 17 would be corrected, then claims 13-20 and 22-24 would be considered allowed if rewritten in independent form to include any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W. Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday ,each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3653

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kenneth W. Noland 8/22/2005
KENNETH W. NOLAND
PRIMARY EXAMINER